

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**FINAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Chapter 3.5, Subchapter 1, Article 2, Sections 406, 411.1-411.4,
415, 417.3 and 417.5 of the Administrative Regulations

Variances from Occupational Safety and Health Standards

There are no modifications to the information contained in the Initial Statement of Reasons except for the following non-substantial modifications, which are the result of Board consideration and public comment.

Section 417.5. Dismissal of Variance Requests.

Proposed new Section 417.5 allows the Board to dismiss, without prejudice, a variance application when the applicant has essentially abandoned the application and is no longer cooperating in the variance process. The term variance "request" is used through this section. Because variance requests are typically referred to as "variance applications" in the administrative regulations, the Board proposes to modify new Section 417.5 by replacing the term "request" with the term "application". The proposed modification will provide greater consistency and clarity in the administrative regulations and will have no effect on the regulated public.

SUMMARY AND RESPONSE TO ORAL AND WRITTEN COMMENTS**I. Written Comments**

There were no written comments received during the 45-day comment period.

II. Oral Comments

Oral comments received at the April 18, 2002 Public Hearing:

Mr. John Bobis, representing GenCorp/Aerojet.

Comment 1:

Mr. Bobis complimented the Board's administrative procedures and suggested that the word "request" be replaced with the word "application" throughout proposed Section 417.5. Mr. Bobis noted that "application" is used throughout the administrative regulations and suggested that it be used here to provide consistency.

Response:

The Board agrees with Mr. Bobis' suggestion to use the term "application" in Section 417.5 and will make the proposed non-substantial change.

Comment 2:

Mr. Bobis also suggested that the Board attempt to further define the meaning of the term "significant delay" used in Section 417.5. Mr. Bobis understands the complexity inherent in defining such a situation, and stated that he understood what the Board was referring to, but suggested that greater specificity might assist the regulated public.

Response:

The Board recognizes that the term "significant delay" leaves some room for interpretation, but the Board's experience demonstrates that no two situations with variance applications are alike. Because of the variability between variance applicants, variance applications and the reasons for the delay, the Board believes it is best to use a term that allows for some flexibility in the Board's response to this problem. The Board does not believe it can retain that flexibility and provide more specificity. Accordingly, the Board believes it is best to retain the proposed language on this issue.

The Board thanks Mr. Bobis for his support of the administrative regulations and for his participation in the Board's rulemaking process.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

This regulation does not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed regulation. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the adopted action.